Indiana Department of Education

Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1616.00

COMPLAINT INVESTIGATOR:

DATE OF COMPLAINT:

DATE OF REPORT:

Jane Taylor-Holmes
September 12, 2000
October 12, 2000

REQUEST FOR RECONSIDERATION: no

DATE OF CLOSURE: June 16, 2003

COMPLAINT ISSUES:

Whether the Gary Community School Corporation violated:

511 IAC 7-27-7(e) with regard t the school's alleged failure to have an *individualized education program* (the "*IEP*") in effect for the student at the beginning of the 2000-01 school year.

511 IAC 7-27-7(d) with regard to the school's alleged failure to have an *IEP* that is not more than twelve months old.

511 IAC 7-18-2(a) with regard to the school's alleged failure to provide a free appropriate public education ("FAPE") to a student with a disability between the ages of three and twenty-two during the 1999-2000 and 2000-01 school years.

511 IAC 7-12-1 with regard to the school's alleged failure to implement the student's *IEP* during the 1999-2000 school year, specifically failing to provide compensatory tutorial services as stated in the *IEP*.

During the course of the investigation, additional issues were identified, which are:

Whether the Gary Community School Corporation violated:

511 IAC 7-3-23 with regard to the school's failure to provide a FAPE to a student with a disability between the ages of three and twenty-two during the 1997-98, and 1998-99 school years.

511 IAC 7-3-20 with regard to the school's failure to define the duration of services dates by month, day, and year in the Student's *IEP* for the 1997-98 school year.

511 IAC 7-12-1 with regard to the school's failure to implement the student's *IEP* as written during the 1997-98 school year.

511 IAC 7-12-1(k)(6) with regard to the school's failure to include the initiation and duration of services dates in the Student's *IEP* dated April 21, 2000, and in the Student's *IEP* for the 1999-2000 school year.

511 IAC 7-12-1(I) with regard to the school's failure to have an *IEP* in effect that is no more than twelve months old during the 1997-98, 1998-99, 1999-2000, and 2000-01 school years.

511 IAC 7-12-3(b) with regard to the school's failure to convene the case conference committee at least every 60 instructional days to review the student's *IEP* during the 1997-98, 1998-99, and 1999-2000 school years.

FINDINGS OF FACT:

- 1. The Student is 16 years old and is eligible for special education and related services as a student with a multiple handicap. The Student's placement is homebound instruction (the "Homebound").
- 2. The *IEP* dated April 22, 1996, indicates that the case conference committee's (the "CCC') recommendation for the Student's placement for the 1996-97 school year was special education instruction for most of the instructional day in the multiple handicap classroom.

1997-98 school year

3. The next CCC meeting for the Student was on November 6, 1997. The Student was placed on Homebound because of various unstable medical conditions. Two pages of the *IEP* state that the Student was to receive four hours of Homebound per week. The permission for placement page of the *IEP* states that the Student was to receive five hours of Homebound per week. November 1997 is listed as the anticipated starting date; however, under related services, special transportation is checked to be provided twice daily on each school day, with a beginning date of August 1997, and an ending dated of June 1998.

1998-99 school year

- 4. No *CCC Report/IEP* was submitted by the local special education office (the "Special Education Office") for the Student's 1998-99 school year.
- 5. The CCC met on or about April 21, 1999. The front page of the *IEP* indicates that the purpose of the meeting was to discuss extended school year services, special equipment, and transportation.. The CCC Report states that the Student was still unable "to tolerate a classroom schedule." The CCC placement recommendation for the Student continued to be Homebound for five hours per week. The *IEP* also states that the Student was to receive Homebound compensatory services for 55 hours during the summer of 1999. Although there are goals and objectives in this *IEP*, there are no initiation or duration of services dates listed.
- 6. The Special Education Office's written response (the "Written Response") states that the April 1999 CCC meeting was initiated by the Complainant to discuss Homebound and respite care.

1999-2000 school year

- 7. The CCC met four months later on August 31, 1999. The CCC Report includes the following statement. "Parent wants consistent delivery of services." The *IEP* states that the Student was to receive an occupational therapy ("OT") evaluation and a physical therapy ("PT") evaluation. The CCC recommended eight hours of Homebound per week, until September 2, 1999, when it was recommended that the CCC reconvene. There are no initiation and duration of services dates listed in this *IEP*.
- 8. Although the Special Education Office's Written Response states that Homebound was provided to the Student from August 31, 1999, to June 10, 2000, the Written Response also states that there was a "cessation of service during this time period."

2000-01 school year

- 9. The next CCC meeting was held on September 12, 2000. The CCC Report includes the following statement. "Parent wants consistent delivery of services." The IEP states that the Student is to have a PT evaluation. There is no indication that the Student received the OT evaluation, as indicated in the August 31, 1999 CCC Report/IEP. The CCC recommended that the Student continue Homebound five hours per week for one hour daily, Monday through Friday. The initiation and duration of services dates for the IEP are September 18, 2000, to June 10, 2001.
- 10. The 2000-01 school year began on August 24, 2000. The Special Education Office's Written Response states that Homebound began for the Student on September 19, 2000.
- 11. The Special Education Office did not submit any time sheets to document when Homebound has been provided to the Student.

CONCLUSIONS:

- 1. Findings of Fact #9 and #10 indicate that the Student did not have an IEP in effect at the beginning of the 2000-01 school year. A violation of 511 IIC 7-27-7(e) occurred.
- 2. Findings of Fact #2, #3, #4, #5, #6, #7, and #9 indicate that the Student had *IEP*s that were more than twelve months old during the 1997-98, 1998-99, 1999-2000, and 2000-01 school years. A violation of 511 IAC 7-12-1(I) and 511 IAC 7-27-7(d) occurred.
- 3. Findings of Fact #3, #4, #5, #7, #8, #9, #10, and #11 indicate that the Student was not provided a FAPE during the 1997-98, 1998-99, 1999-2000 school years, and at the beginning of the 2000-01 school year. A violation of 511 IAC 7-3-23 and 511 IAC 7-18-2(a) occurred.
- 4. Finding of Fact #3 indicates that the Student's *IEP* for the 1997-98 school year did not include in the day, month, and year in the duration of services dates. A violation of 511 IAC 7-3-20 occurred.
- 5. Findings of Fact #5 and #7 indicate that the Student's *IEP* dated April 21, 1999, and the *IEP* for the 1999-2000 school year did not include the initiation and duration of services dates. A violation of 511 IAC 7-12-1(k)(6) occurred.
- 6. Findings of Fact #3, #5, #7, #8, and #11 indicate that the Student's *IEP*s for the 1997-98, and 1999-2000 school years were not implemented. A violation of 511 IAC 7-12-1 occurred.
- 7. Findings of Fact #3, #4, #5, #6, and #7 indicate that the Student's CCC did not meet every 60 instructional days to review the *IEP* during the 1997-98, 1998-99, and 1999-2000 school years. A violation of 511 IAC 7-12-3(b) occurred.

The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Gary Community School Corporation shall:

1. provide inservice training to all local school corporation professional personnel regarding the requirement to have an IEP in effect for all students eligible for special education and related services

Page 4

at the beginning of each school year. **Documentation in the form of the inservice training agenda**, along with a sign-in sheet of all attendees, by name and title, shall be submitted to the Division no later than November 30, 2000.

- 2.a. provide inservice training to all local school corporation professional personnel regarding the requirement that all student IEPs must not be more than twelve months old. **Documentation in the form of the inservice training agenda, along with a sign-in sheet of all attendees, by name and title, shall be submitted to the Division no later than November 30, 2000.**
- 2.b. collaborate with Division personnel during an on-site review of a random sampling of local school corporation student educational records who are currently receiving special education and related services to determine if *IEP*s are more than twelve months old. The on-site review will be initiated by the Division and scheduled at a mutually agreed upon time, but no later than November 30, 2000.
- 3.a. convene the Student's CCC meeting no later than November 12, 2000, to discuss compensatory services. The CCC shall review the Student's *IEP*s from the 1997-98, 1999-2000, and 2000-01 school years, and determine the amount of Homebound the Student was to have received weekly for the instructional years identified. Although no *IEP* was identified for the 1998-99 school year, consideration shall also be given to that year while discussing compensatory services. **Documentation in the form of the revised** *CCC Report/IEP* **indicating the amount of compensatory services that the Student shall receive, and how those services shall be provided to the Student shall be submitted to the Division no later than November 30, 2000.**
- 3.b. submit a monthly accounting of the compensatory services provided to the Student to the Division at the first of each month, beginning January 1, 2001 (for the December 2000 services, etc.), until all the compensatory time has been provided to the Student.
- 4. provide inservice training to all local school corporation professional personnel regarding the requirement that all student *IEP*s must include initiation and duration of services dates for special education and related services, and those dates must define the day, month, and year of said services. Documentation in the form of the inservice training agenda, along with a sign-in sheet of all attendees, by name and title, shall be submitted to the Division on later than November 30, 2000.
- 5.a. conduct the Student's OT and PT evaluations prior to convening the Student's CCC meeting in order to for the CCC to discuss the results of said evaluations. As indicated in Corrective Action #3.a., the CCC shall convene no later than November 12, 2000, and documentation in the form of a copy of both evaluation reports shall be submitted to the Division no later than November 30, 2000.
- 5.b. include OT and PT goals and objectives in the revised *CCC Report/IEP* if said services are determined appropriate by the CCC in order for the Student to benefit from special education services. **As** indicated in Corrective Action #3a., the CCC shall convene no later than November 12, 2000, and the revised *CCC Report/IEP* shall be submitted to the Division no later than November 30, 2000.
- 6.a. provide inservice training to all local school corporation professional personnel regarding the requirement to convene student CCC meetings every 60 instructional days for those students receiving Homebound. Documentation in the form of a copy of the inservice training agenda, along with a sign-in sheet of all attendees by name and title, shall be submitted to the Division no later than November 30, 2000.

6.b. convene the Student's CCC at least every 60 instructional days to review the Student's IEP.

Documentation in the form of a copy of the Student's revised CCC Report/IEP shall then be submitted to the Division at least every 60 instructional days during the remainder of the 2000-01 school year. If the Student's placement changes and no longer receives Homebound during this school year, the Division shall be notified in writing of said change of placement. The first revised CCC Report/IEP shall be submitted to the Division no later than November 30, 2000.